

FEB 22 1973 -10 00 AM

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, dated as of February 15, 1973, by and between GEORGIA INDUSTRIAL REALTY COMPANY, a Georgia corporation (the "Vendor"), and SOUTHERN RAILWAY COMPANY, a Virginia corporation (the "Vendee"),

W I T N E S S E T H: THAT

WHEREAS, by Purchase Order No. 121630 dated December 27, 1972, Vendee contracted with Greenville Steel Car Company to build 100 - 100-ton, 50' CUF Bulkhead Flat Cars to bear Vendee's road numbers 116100 to 116199, inclusive, and by Purchase Order No. 121631 dated December 27, 1972, Vendee contracted with Greenville Steel Car Company to build 100 - 100-ton, 61'11" Bulkhead Flat Cars to bear Vendee's road numbers 114250 to 114349, inclusive, and by Purchase Order No. 121690 dated December 1, 1972, Vendee contracted with Pullman Incorporated (Pullman-Standard division) to build 75 - 100-ton, 50'6" Box Cars to bear Vendee's road numbers 526600 to 526674, inclusive, (such Purchase Orders hereinafter called "Purchase Orders" and such cars hereinafter called "Cars"); and

WHEREAS, the builders of the Cars are, under the terms of the Purchase Orders, to deliver the cars to Vendee at Georgetown, Kentucky, in the case of Greenville Steel Car Company and at Bessemer, Alabama, in the case of Pullman Incorporated, freight charges prepaid; and

WHEREAS, inasmuch as Vendee has not as yet consummated financing arrangements for the acquisition of the Cars, it is not

in a position to accept delivery of and pay for the Cars under the terms of the Purchase Orders at this time; and

WHEREAS, Vendee represents that such financing arrangements will be consummated on or before August 15, 1973, and Vendee, in order that it may use the Cars pending completion of the above financing arrangements, has requested Vendor to take an assignment of Vendee's rights to receive and purchase the Cars under the Purchase Orders, to purchase the Cars on delivery and to give Vendee temporary custody and possession of the Cars, solely as a lessee of the Cars; and

WHEREAS, Vendor is willing to accept such assignment, and to purchase and lease the Cars upon the terms and conditions hereinafter stated;

NOW, THEREFORE, in consideration of the premises and of the promises of the parties herein contained, the parties agree as follows:

1. Vendee hereby assigns to Vendor its rights to receive and purchase the Cars under the Purchase Orders and Vendor hereby accepts such assignment and designates the Vendee as its agent to accept delivery of the Cars.

2. Vendor agrees to lease the Cars to Vendee and Vendee agrees to hire the Cars from Vendor at the delivery points above referred to. The rights of Vendee hereunder in respect of each Car shall commence on the date of acceptance of such Car as agent for the Vendor and end on the earlier of August 15, 1973, or the date of payment of the purchase price of such Car under the above financing arrangements. Vendee shall purchase the Cars from Vendor

or provide a purchaser therefor on or before August 15, 1973, and Vendor shall sell the Cars to Vendee or such purchaser as Vendee may provide, at the purchase price as set in the Purchase Orders, and its obligation so to do shall be absolute, regardless of the condition of the Cars at such time. When the purchase price of any Car has been paid this Agreement shall automatically be terminated with respect to such Car without further action by or notice to any party concerned. On delivery of each Car to Vendee, Vendee will assume the responsibility and risk of loss with respect to such car.

3. Title to the Cars shall remain in Vendor and Vendee's right and interest therein is and shall be solely that of possession, custody, and use as lessee under this Agreement. Transfer of title shall be effected only at the time of delivery of the bills of sale. Vendee shall do such acts as may be required by law, or reasonably requested by Vendor, for the protection of Vendor's title to and interest in the Cars.

4. As rental for the Cars Vendee agrees to pay in cash to Vendor upon the termination of this Agreement the sum of \$1.00.

5. Vendee agrees that it will permit no liens of any kind to attach to the Cars, and that it will (a) indemnify and save harmless Vendor from any and all claims, expenses, or liabilities of whatsoever kind, and (b) pay any and all taxes, fines, charges, and penalties that may accrue or be assessed or

imposed upon the Cars or the Vendor because of its ownership or because of the use, marking, operation, management or handling of the Cars by Vendee during the term of this Agreement.

6. Vendee will, at its own expense, keep and maintain the Cars in good order and running condition and will at its option repair or replace or promptly pay to Vendor the purchase price in cash of those cars which may be damaged or destroyed by any cause during the term that this Agreement applies to such Cars.

7. Prior to the Delivery of the Cars to Vendee there shall be plainly, distinctly, permanently, and conspicuously marked and maintained by the Vendee upon each side of each Car in letters not less than one-half inch in height the following words:

"OWNED BY A BANK OR TRUST COMPANY UNDER A FINANCING AGREEMENT RECORDED WITH THE INTERSTATE COMMERCE COMMISSION UNDER SECTION 20c OF THE INTERSTATE COMMERCE ACT."

8. Vendor shall have the right to assign its rights under this Agreement or under the Purchase Orders pursuant to the financing arrangements referred to above.

9. Vendor shall have no obligation to warrant the condition of the Cars but agrees to pass to Vendee or Vendee's

nominee the builders' warranties on the Cars.

GEORGIA INDUSTRIAL REALTY COMPANY,  
By

*W. J. Jones*  
Vice President

ATTEST:

*R. S. Allen*  
Assistant Secretary

SOUTHERN RAILWAY COMPANY,  
By

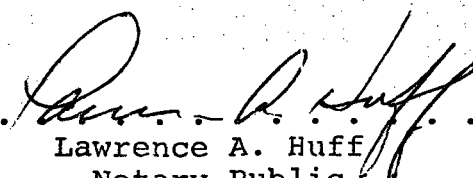
*K. G. Hester*  
Vice President

ATTEST:

*R. S. Allen*  
Assistant Secretary

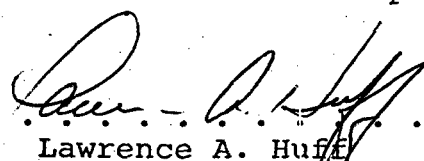
DISTRICT OF COLUMBIA.

On this 21<sup>st</sup> day of February, 1973, before me personally appeared W. W. Simpson, to me personally known, who, being by me duly sworn, says that he is a Vice President of Georgia Industrial Realty Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Lawrence A. Huff  
Notary Public  
in and for the District of Columbia  
My commission expires June 30, 1977.

DISTRICT OF COLUMBIA.

On this 21<sup>st</sup> day of February, 1973, before me personally appeared K. A. Stoecker, to me personally known, who, being by me duly sworn says that he is a Vice President of Southern Railway Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Lawrence A. Huff  
Notary Public  
in and for the District of Columbia  
My commission expires June 30, 1977.